

REMARKS

The Office Action has been carefully considered and the foregoing amendment made in response thereto. The present status is as follows:

- Claims 1-8, 10, and 12-26 are pending in the application.
- Claims 1-8, 10, and 12-26 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite.
- Claims 1, 4, 12, 14, 21, 22, and 25 stand rejected under 35 U.S.C. § 102(b) as being anticipated by LaBianca et al. (U.S. Pat. No. 4,733,773).
- Claims 2, 3, 5-8, 10, 13, 15-20, 23, and 26 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over LaBianca et al. (U.S. Pat. No. 4,733,773) in view of Moore (U.S. Pat. No. 5,855,289).
- Claim 24 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over LaBianca et al. (U.S. Pat. No. 4,733,773) and Moore (U.S. Pat. No. 5,855,289), in further view of Neeley et al. (U.S. Pat. No. 5,164,575).

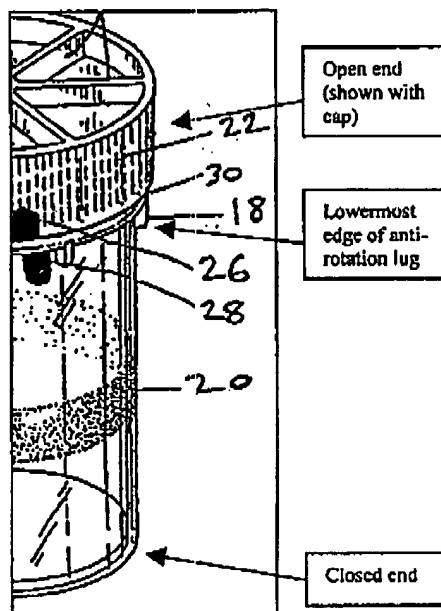
In view of the above amendment and following remarks, Applicants respectfully request reconsideration and withdrawal of the rejection of claims 1-8, 10, and 12-26.

1. Applicants thank Examiner P. Bex and Supervisory Patent Examiner J. Warden for participating in an in-person interview with Applicants' undersigned representative held on 24-Jul-02, at the U.S. Patent and Trademark Office. During this interview, Applicants' representative demonstrated an embodiment the invention to the Examiners and discussed an amendment to independent claim 1 to describe more clearly the longitudinal extent of the anti-rotation lugs 18. Applicants have herein amended claim 1 to incorporate the language agreed on with the Examiners. As discussed in the interview, this language is sufficient to overcome the claim rejections under 35 U.S.C. § 112, second paragraph, and under 35 U.S.C. § 102(b) with respect to LaBianca et al. (U.S. Pat. No. 4,733,773). Accordingly, Applicants respectfully submit that this Amendment and Response is consistent with that discussed in the interview.

2. Claims 1-8, 10, and 12-26 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Applicants respectfully traverse this rejection as it applies to the claims as amended.

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As discussed in the interview, Applicants have herein amended independent claim 1 to state that the lowermost edge of the anti-rotation lug 18 is located closer to the open end of the body 12 than the closed end of the body 12. This amendment to claim 1 does not introduce new matter, because the longitudinal extent of the anti-rotation lug 18 is clearly visible in, for example, Figure 1 as filed, a portion of which is reproduced at right.



As reflected in the Interview Summary dated 24-Jul-02 (Paper No. 30), the aforementioned amendment to claim 1 is sufficient to overcome the rejection under 35 U.S.C. § 112, second paragraph. Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejection of independent claim 1 and dependent claims 2-8, 10, and 12-26 (all depending, directly or indirectly, from claim 1) under 35 U.S.C. § 112, second paragraph.

3. Claims 1, 4, 12, 14, 21, 22, and 25 stand rejected under 35 U.S.C. § 102(b) as being anticipated by LaBianca et al. (U.S. Pat. No. 4,733,773). Applicants respectfully traverse this rejection as it applies to the claims as amended.

As discussed in the interview, LaBianca et al. discloses ribs 68 that stiffen the ammunition container 20. Col. 4, ll. 42-45. The ribs 68 extend the entire length of the container 20, interrupted by the stacking blocks 44, 46, 48. LaBianca et al. Figure 1. Consequently, the ribs 68 lack a lowermost edge that is closer to the open end of the container 20 than the closed end of the container 20, as Applicants claim.

As the Interview Summary states, the aforementioned amendment to independent claim 1 is sufficient to overcome the rejection under 35 U.S.C. § 102(b) as being anticipated by LaBianca et al. Accordingly, Applicant respectfully submits that independent claim 1, as amended herein, is clearly and patentably distinguished over LaBianca et al. and is, therefore, allowable. As

claims 4, 12, 14, 21, 22, and 25 depend, directly or indirectly, from claim 1, Applicants submit that these claims are allowable as well.

Applicants respectfully request reconsideration and withdrawal of the rejection of claims 1, 4, 12, 14, 21, 22, and 25 under 35 U.S.C. § 102(b) as being anticipated by LaBianca et al.

4. Claims 2, 3, 5-8, 10, 13, 15-20, 23, and 26 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over LaBianca et al. (U.S. Pat. No. 4,733,773) in view of Moore (U.S. Pat. No. 5,855,289). Applicants respectfully traverse this rejection as applied to the claims as amended.

Moore teaches the use of ribs 64, 70 on a lid 34 that are adapted to flex under a centrifugal load and expand the peripheral member 38 of the lid 34. Col. 5, ll. 34-36. This expansion increases the sealing force applied by the lid 34, tightening the seal between the gasket 54 and the cylindrical wall 26. Col. 6, ll. 43-47. The downward deflection of the ribs 64, 70 also focuses the compressive force applied by the lid 34 away from the center of the stopper 84 onto the area of the stopper 84 that coincides with the annular ring 68. Col. 7, ll. 18-20. This enhances the fluid-tight and air-tight seal between the stopper 84 and the receptacle 22. Col. 6, ll. 29-35. The mating surfaces of the stopper 84 and the receptacle 22 are smooth, thereby ensuring an effective seal. Moore Figure 7. Thus, the ribs 64, 70 purportedly serve to increase the effectiveness of the two seals when the container 10 is in use. Because the amount of deflection and corresponding expansion increase in proportion to the centrifugal force, the seals are improved as the force increases.

As discussed above, LaBianca et al. fails to disclose or suggest the anti-rotation lugs 18 of Applicants' independent claim 1, as amended herein. Further, as stated in the Office Action dated 7-Feb-02 (Paper No. 23), "Moore does not teach the use of at least one anti-rotation lug about the body outer surface." Consequently, Applicant respectfully submits that the aforementioned amendment to independent claim 1 (from which claims 2, 3, 5-8, 10, 13, 15-20, 23, and 26 depend) renders claims 2, 3, 5-8, 10, 13, 15-20, 23, and 26 allowable, because Moore fails to cure the deficiency of LaBianca et al. with respect to the anti-rotation lug of Applicants' sample vial as claimed in claim 1.

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Applicants respectfully request reconsideration and withdrawal of the rejection of claims 2, 3, 5-8, 10, 13, 15-20, 23, and 26 under 35 U.S.C. § 103(a) as being unpatentable over LaBianca et al. in view of Moore.

5. Claim 24 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over LaBianca et al. (U.S. Pat. No. 4,733,773) and Moore (U.S. Pat. No. 5,855,289), in further view of Neeley et al. (U.S. Pat. No. 5,164,575). Applicants respectfully traverse this rejection as applied to the claims as amended.

Neely teaches the use of a portable apparatus for blood or other sample collection that places indicia, including a bar code, on a test-tube. Applicants' claim 24 depends from claim 23, which in turn depends from claim 1. Applicants respectfully submit that Neeley fails to cure the deficiencies of LaBianca et al. and Moore with respect to the structure of the anti-rotation lugs 18 claimed in independent claim 1 as discussed above. Because claim 1, as amended herein, is allowable and clearly and patentably distinguished over the cited references, either alone or in proper combination, Applicants respectfully submit that claim 24, ultimately depending from claim 1, is allowable as well.

Applicants respectfully request reconsideration and withdrawal of the rejection of claim 24 under 35 U.S.C. § 103(a) as being unpatentable over LaBianca et al. and Moore, in further view of Neeley et al.

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CONCLUSION

In view of the foregoing, Applicants submit that claims 1-8, 10, and 12-26, are clearly and patentably distinguished over the cited references, either alone or in proper combination, and are therefore allowable. Applicants respectfully request entry of this Amendment and Response, reconsideration, and early favorable action by the Examiner.

The Examiner is cordially invited to contact Applicants' undersigned representative at the number listed below to discuss any outstanding issues.

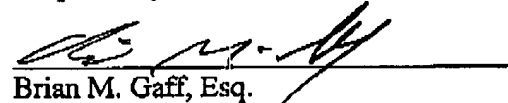
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VERSION OF AMENDED ITEMS WITH MARKINGS TO SHOW CHANGES MADE

August 16, 2002

IN THE CLAIMS:

1. (Seven times amended) A sample vial for use in an automated test apparatus, the sample vial comprising:
 - a body comprising an outer surface, an open end, a closed end, and at least one anti-rotation lug about said body outer surface, the anti-rotation lug comprising a generally flat, longitudinally disposed surface extending radially outwardly from said body outer surface, the longitudinally disposed surface comprising a lowermost edge that is substantially perpendicular to said body outer surface, the lowermost edge located closer to the open end than to substantially remote from the closed end;
 - a cap releasably engagable with said body, said cap comprising an outer surface and a torque pattern on said cap outer surface, said torque pattern comprising a plurality of radially disposed ribs; and
 - a seal disposed between said body and said cap so as to be capable of forming a substantially fluid-tight seal therebetween,
- wherein both of the flat surface and the lowermost edge of the at least one anti-rotation lug is accessible when the cap is engaged with the body for reacting against proximate structure of the automated test apparatus when installed therein to facilitate at least one of automated removal and installation of the cap.

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